

N E W S
L E T T E R

Real Estate Education Newsletter

April 2004

for Instructors and School Administrators

**Register
Online!**

2004 Train the Trainer/ Continuing Education Core Course

This year's Train the Trainer Workshop/CE Core 2004 pilot program is scheduled May 18-19, 2004, at the Hilton Garden Inn, 7699 Spectrum St., Boise. A registration flier is attached (PDF format) or, **register online** at www.idahorealestatecommission.com/edcorner/TTW.html

Here's a look at the agenda:

Tuesday, May 18, 2004

- * Adult Learning that Makes Sense by Diana Brouthers
 - * Luncheon panel discussion: ID Instructor Techniques
 - * Evening reception at the Hilton Garden Inn lounge
- Wednesday, May 19, 2004
- * Outline to PowerPoint: Hands-On! by Andy Lanning
(**we encourage you to bring your laptop!**)

- * Luncheon panel discussion: IREC Issues
- * 2004 CE Core Pilot Program
 - Hot Topics by Doug Marfice
 - Case Law by Justin May
 - Legislative Changes by Mark Snodgrass

We'll see you there!

Please distribute this information to your students!

The recent changes to fingerprinting requirements have caused some backlog at the Idaho State Police. ISP personnel indicate they are not able to accommodate more than 5 candidates at a time (especially during the lunch hour).

Promissor (real estate testing company) is offering fingerprinting services at each of their Idaho testing centers. Ink fingerprinting is available to applicants who go to the Pocatello and Coeur d'Alene centers for a \$10 fee, in the form of a certified check, cashier's check, or money order made payable to Promissor. The completed fingerprint card will be returned to the applicant. Digital fingerprinting is provided at the Boise center for a fee of \$15, in the form of a certified check, cashier's check, or money order made payable to Promissor.

Promissor centers are open for fingerprinting:

Boise

Tuesday & Wednesday (1:00pm - 10:00pm)

Thursday, Friday, Saturday (8:00am - 5:00pm)

Boise Center directions: I-84 exit 50A west on Overland Road for approximately one mile. Right on Kimball Way; left into Lynx Center. Promissor is located in the north side of the building. (9376 Overland Rd, Blackeagle Complex/Lynx Ctr., Boise)

Coeur d'Alene

2nd & 4th Saturday (8:00am - 5:00pm)

CDA Center directions: From I-90 take exit 11; North on Ramsey 1 mile; turn West/left on Kathleen for 1 mile to Atlas Ave. North/Right on Atlas then West/left on Industrial Ave. Turn North/right on Industrial Place, just before the Tesh, Inc. complex proceed to the parking lot behind the complex. The Test Center is located in the Skills Connection building. (3803 Industrial Ave. South, Coeur d'Alene)

Pocatello

Every Saturday (8:00am - 5:00pm)

Pocatello Center directions: Take I-15 to Exit 69 Clark Street Exit. Take Clark Street to 812 E. Clark Street. The Center is located in the ReMax Building, Suite E. (812 E. Clark Street, Pocatello)

For more information about the revised fingerprinting policy effective March 1, 2004, please see the "News Release" found on the website at <http://www.idahorealestatecommission.com/publcs/FPchange.doc>

100% Attendance Policy

Just a reminder that the 100% attendance policy is now **required language** for each certified student course outline. This is **effective immediately**. Attached is a page you can insert into student outlines. Please remember this policy is at the discretion of the instructor (and provider), meaning it is permissible for the instructor or provider to have *more stringent* standards with regard to make-up policies.

Exam Workshop Scheduled

The Education Council has scheduled an exam-writing workshop for June 2-3, 2004, to review and develop items for the license exam. Subject matter experts will be contacted by Promissor. Your participation is greatly appreciated!

License Fees Reduced!

The Commission has announced a \$20 license fee reduction. Effective April 1, 2004, the initial license and license renewal fee will be lowered to \$180 plus \$20 recovery fund fee for a total of \$200 per bi-annual license period.

Commission members recently authorized this fee reduction, made possible through the efforts of the IREC staff in streamlining processes, staff reduction, and efficient agency management.

Renewals Made Easier

On March 1, 2004, the Idaho Real Estate Commission introduced a revised renewal program. This new programming improves the renewal process by simplifying licensees' ability to self-certify the completion of their continuing education courses. The old procedure required licensees to list the course name, certification number, number of hours, and the course provider's name for each course they took to satisfy the continuing education requirement. The new program asks the licensees if they have completed the required education and allows the licensees to check either "Yes" or "No." This new process makes it much easier for licensees to self-certify that they have completed the electives and the CORE course within each renewal period.

Licensees still need to retain their CE course completion certificate in case they are selected for an audit.

Certification Policy Changes

The Subject qualifications for instructors have been revised, along with the Course, Provider, and Instructor applications. The revised version of these can be found on the "Educator's Corner" portion of our website.

Here is what has changed:

Broker Prelicense Course—Brokerage Management: Applicant should have an active principal broker's license, and at least 5 years active real estate experience, CRB designation or academic degree in management. Applicant should have both practical experience and theoretical background.

Continuing Education (Commission's CORE Course): Applicant must be a certified real estate sales prelicense instructor and meet the qualifications to teach Essentials. While candidates may either view the current continuing education course videotape program, or attend the Commission's presentation, it is strongly recommended that the applicant attend the annual live CE Core Course Pilot program videotaping session. All candidates must pass the final CE course exam prior to certification. (Note: If instructor candidates take the CE exam for certification, but have already met the CE requirement for licensure by having previously taken the exam during their current license period, the exam fee will be waived.)

Continuing Education Elective Courses (Alternate Electives): Indicate how you have gained KNOWLEDGE of the REAL ESTATE COURSE MATERIAL you wish to teach. You must provide evidence (i.e. real estate license history, designation, training certificate). If applicant does not fit within current guidelines, then they should apply to the Commission for special consideration:

- 1) Have at least 5 years experience in a profession, trade or technical occupation in a field directly related to the course I intend to instruct, or
- 2) Obtained a bachelors or postgraduate degree in the field of real estate, business, law,
- 3) Any combination of at least 5 years of full-time experience or college-level education in a field directly related to the course intended to instruct.

Broker Prelicense Course—Finance: Applicant should have at least 5 years active theoretical background together with practical experience in real estate &/or finance.

Broker Prelicense Course—Other Investments: Applicant should have at least 5 years specialized experience in the desired topic, such as investment, taxation, etc. earned or be working toward the CCIM designation.

Broker Prelicense Course—Law: Applicant should be an attorney. have at least five (5) years active practicing in real estate law.

Salesperson's Prelicense (Module 1 & 2) Courses Curriculum: Applicant should have at least five (5) years active real estate experience, and a demonstratable familiarity with the subject matter. (Rev. 2/04-7/01)

Taxation: Applicant should have both theoretical and practical experience acquired as a tax practitioner dealing in real estate matters or evidenced by the CCIM designation.

Broker Prelicense Course—Valuation & Analysis: Applicant should have earned or be actively practicing as a state licensed or certified appraiser working towards a designation from a recognized appraisal institute.

Legislative Update

The Commission's legislation has passed! The changes are:

Disposition of Disciplinary Fine Monies

This deals with the use of the disciplinary fine monies collected by the Commission. This money will be used to benefit real estate licensees specifically, by providing education with the aim of decreasing licensee violations. This bill requires all fine monies collected by the Commission of any disciplinary action, including the audit citation program, library fines, and insufficient fund charges be used exclusively for the development and delivery of real estate education for the benefit of Idaho licensees.

Continuing Education Housekeeping Bill

The "housekeeping" bill concerns matters emerging from the recent legislative and program development in the continuing education arena. These are:

◆ 54-2023 (5): Provision allowing instructors to obtain continuing education credit hours for the continuing education courses they teach.

◆ 54-2018 (2): To codify existing rules concerning proof of compliance with continuing education requirements.

◆ To correct latent ambiguity within the text of 54-2023 (1) (b) to accurately reflect legislative intent that the increased continuing education requirement effective July 1, 2003, applies to an active license that is renewed after July 1, 2003.

◆ To provide that an application for instructor recertification may be denied if the applicant fails to meet the requirements of 54-2033 (2) (a), pertaining to professional discipline and criminal conduct.

Assigned Agency Bill

This bill allows a real estate brokerage to provide full services when representing both the buyer and the seller in the same real estate transaction. The statute currently allows a single brokerage to represent both the buyer and seller, with the written consent of the parties, but requires that such representation be "limited." This bill creates a new option, authorizing a broker to assign a different sales associate to represent each party, provided the broker has written consent of both parties and has developed an office policy to ensure that client confidences are not compromised. The designated broker would not be able to act as an assigned agent, but must remain a limited dual agent.

It is important to note that this option is just that, an *option*.

Collecting Evaluations

Here is a review of the evaluation policy to ensure evaluation collection procedures are completed properly:

"Instructors should not be present in the classroom during the time that the students are completing evaluation forms. Instructors should direct the students to complete the forms during the instructor's absence. Before leaving the room, the instructor should provide a large manilla envelope with instructions for each student to place their completed evaluation forms in the envelope provided. The last student to place a form in the envelope should then seal the envelope and return it to the instructor or school official to be returned directly to the Commission office (sealed) for compilation. Each instructor and school will receive copies of the compiled results."

Our hope is with the changes in the form, along with their proper collection, we will ensure a confidential and realistic approach for students and instructors to provide us with the information needed to improve the education programs and services.

2004 Calendar

Commission Meetings

April 15, 2004 June 17, 2004

May 20, 2004 July 14-15, 2004

Holidays—Commission office closed

May 31, 2004—Memorial Day

July 4, 2004—Independence Day

Other Important Dates

April 22-23, 2004—ARELLO Mid Year Meeting

May 11-15, 2004—NAR Midyear Legislative Mtg.

May 18-19, 2004—Train the Trainer/CE Core

June 20-23, 2004—REEA Annual Conference

Education Council Meeting

July 16, 2004

Idaho Real Estate Education Newsletter

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Encl.: Enforcement Dept. Telephone Log; FP Press Release; T3W flier

**IDAHO REAL ESTATE COMMISSION
ENFORCEMENT DEPARTMENT – TELEPHONE LOG ACTIVITY
February 12, 2004- March 11, 2004**

	Number of calls	Percentage
Administrative	95	19%
Consumer Education*	92	19%
Consumer Complaints**	43	9%
Licensee Education*	203	41%
Licensee Complaints**	59	12%
Totals	492	100%
Administration Calls	95	19%
Consumer and Licensee Education Calls	295	60%
Consumer and licensee Complaint Calls	102	21%
Complaints sent out	16	
Guidelines mailer or Internet help	3	
Other information mailed or Internet help	8	
E-mails	24	

*May have started as a complaint call

**Includes calls made to a consumer or licensee on complaints

Common Complaints and Questions

1. Agent complained that another broker who deals in REO properties is not presenting offers properly.
2. Broker has a buyer who wants the seller to give him back \$73K cash at closing for renovations to the property. How does she write this up?
3. Attorney wanted to know when legislation was introduced for Seller Property Condition form in Idaho and who was pushing for it.
4. Seller want to cancel listing.-**5 calls**
5. Buyer want to cancel Buyer Representation Agreement.-**6 calls**
6. Selling agent received a Seller Property Disclosure form and it was not completed properly. What should the selling agent do?
7. Associate broker in SE Idaho has been hearing from lenders and title companies that a broker is demanding cash kickbacks for sending his clients to them. The lenders and title companies are reluctant to come forward with complaints for fear of offending other agents.
8. Buyer purchased lot in subdivision that advertised water association. Now developer has put a \$125K lien on the water system. What can the owners of the lots do?
9. Broker had a listing on a property. The buyer and seller got together independently and put a deal together, and set up escrow. The broker has no paperwork on the deal and they just want to pay him his brokerage fee due. What paper work does he need and what should he do?
10. Fingerprint issues-**16 calls**
11. Multiple offer problems-**6 calls**
12. Buyer purchased property in Melba area in 12/03. He found out later that there was a former fertilizer plant next door and that the property had extremely high nitrate levels, which present health risks to his children. Seller knew about the problem but the buyer is not sure that the listing agent knew. What can he do?
13. Out of state real estate agents want to transact business in Idaho-**7 calls**
14. Broker inquired. He has an agent that buys foreclosures at the trustee sales, what paperwork does he need to have in his files?
15. Agent is having a problem with a lender who only wants to finance the house, and not the additional acreage. Lender wants the seller to deed over the extra acreage
16. Buyer's home had toxic mold and they gave it back to Countrywide Mortgage. The home is now on the market and the lender and agent is not disclosing the mold issue. What can they do?
17. Broker called. One of his agents obtained a listing from a person who had a life estate in a property. Can they this?
18. Broker wanted to know if the owner of a local newspaper went to work for him, as a real estate licensee would there be a conflict of interest?
19. Broker wants to know if advertising unlisted property is misleading to the public?
20. **Broker's office manager grabbed the wrong deposit book and overtime deposited \$47K into the general account rather than the trust account. What do they need to do to resolve the problem?**
21. Agent wants to know the time frame for returning earnest money when a deal falls.
22. Local auctioneer wants to know what he has to do to auction Idaho real property for a Kentucky auctioneer company.
23. **What paperwork does a broke need if he gets a referral fees from a builder for putting the builder and buyer together?**
24. **Agent with one company buys property with an agent with another company. How do they go "through" two or even three different brokers?**
25. **New agent's family has several apartment complexes and they are willing to offer to their renters an incentive if they buy a home from the new agent. They want to give the renter back his last month rent to go for the down payment or closing fees. How would this have to work and is it OK?**
26. **Buyer purchased duplex from seller/agent and later found out that the seller/agent had sold an easement to the Highway District. Now the buyer has no front yards. The title company did not show this easement on the title report. What are his options?**
27. Inactive agent wants to know if she can get paid for referring buyers and sellers to other agents why she is inactive?
28. Buyer purchased a house with acreage. The former owner had lots of trash and horse deposits on the property, and as part of their deal the agent put \$2000 into escrow to clean up the place after it closed. The clean up never happened and eventual the agent told the title company to give the \$2000 to the buyer, which they did. After the check was sent, the agent then demanded the title company to cancel the check, which they did, and the check bounced. What can the buyer do to this agent?
29. Agent did a CMA on a property, but didn't get the listing. Now he has a buyer who wants to see this property. What agency duty does he have to the seller?
30. Executive Secretary feels that it is misleading to the public if agents with another Board and MLS are shown on advertising for a store front office in another town with another Board and another MLS. While the advertisements don't say anything about MLS, she feels that since the agents don't have access to the MLS information, they are misleading the public who might think they do have access. She wants IREC to call the broker who is ignoring her.
31. **Attorney wants to file a complaint against an agent for demanding a commission from his client under a buyer brokerage agreement. The agent did not like the buyer's girlfriend and told the buyer he would not work with him if she were around. The buyer bought a house from another agent, and the first agent found out and is making a demand for the commission he feels he deserves. When the attorney was told that IREC had no jurisdiction in the contract matter the attorney became threatening and said he would go to the Board and the legislature.**
32. An attorney has a client who is selling his development to another developer. There are 30 existing reservation contracts with the present listing broker, but the new developer wants those transferred to the real estate company that a relative of his works for. The attorney wants to know how to accomplish this?
33. Agent left one office for another office. Her former broker has changed her split from 80/20 to 70/30 and now has refused to give her any commissions due until she pays past due office fees. What authority does the old broker have to do this?
34. Broker wanted to know how to do a BPO.

35. Washington attorney wanted to know if lending activities fell under definition of a broker?
- 36. Buyer wanted to know how it was legal for the listing agent of a lot in a subdivision to demand a 2% commission on the build job when they had nothing to do with the build job just the lot sale. Is this a tie-in arrangement?**
- 37. Buyer was upset when found out he did not have a private well as advertised but a joint well with the owner who lives next door.**
38. Agent wanted to know when the agency laws first went into effect in Idaho?
39. Mortgage broker is concerned with the way the industry is going with kickbacks, rebates, giving away free trips and paying for buyers closing fees.
40. Idaho agent wants to sell Nevada property. How can she do it?
41. An agent renewed her license late. She did everything she thought she was supposed to do: paid her MLS and Realtor dues; paid her O&E Insurance; and took her CE. The only thing she didn't do was pay for and complete her renewal of her license, and her broker never remaindered her about it. The civil fine is \$300 each, and she wanted to know since her license expired before 2/1/04 if she could be grandfathered into the old civil fine amounts?
42. Agent wants to know why IREC is allowing agents to give a portion of their commissions to buyers and sellers. She feels it is cheapening their services.
43. FSBO had ranch. Agent brought an offer, which he accepted and there was to be no commission fee to the agent from the seller. The seller's attorney prepared the offer. Later agent wanted 1% commission on the sale, which the attorney advised him to pay. The agent later wanted to disclose that the buyer was friend of hers in an addendum. The seller wants to file a complaint against her for this late disclosure.
44. Buyer upset with the selling agent on a VA foreclosure, because the agent did not disclose the sale would be "as is" and the buyer would have to do compliance work to get a loan on it.
45. Satellite Company wants to give real estate agents a fee is they will sign up their buyers for new satellite TV contract with this satellite company.
46. Agent is selling a property on a lease purchase and wants to know how to show that a portion of the monthly lease payment will go for the down payments. She also wants to know how it is tracked?
47. Idaho reciprocal broker from Utah had a listing on a \$2.75 million dollar recreational cabin. Another Utah broker, who is not licensed in Idaho, kept complaining about this agent to the seller and the court who controlled the listing, until the Idaho reciprocal broker cancelled the listing. Now the Utah broker is advertising the Idaho property on his Utah website.
48. Consumer from Washington wanted to know if Idaho real estate companies are required to have signage out front of their offices so people can locate them?
- 49. General trust accounting questions-15 calls.**
50. A broker is taking a listing that had toxic mold. The mold has been cleaned up, does she still have to disclose.-**2 calls.**
51. McCall Realtor Board wants to file a complaint against Boise agents who are working in McCall branch office.
52. Agent wants to know how to quit her seller/client?
53. Consumer wants to file a complaint against a licensee for failing to disclose a leaking foundation. He consumer bought the house 3 years ago and this leak is new, but they did tell him about a leak at another location in the foundation.
54. Broker wants to know if he can take a listing without a price?
55. Agent wants to share his commission with the Idaho Vandals.
56. Licensee wants to know what to do when the buyer wants the seller to make more repairs than the seller is willing to actual do?
57. Boise agent wants to file a complaint against a Cascade agent who won't work with her on a Tamarack Resort listing the other agent has.
58. A broker got a letter saying he must replace all of his minimum wage and equal housing posters soon. The sender was the poster maker.
59. Broker wants to fire an agent and keep her license until her office bill is paid-**4 calls.**
60. Reciprocal broker from Oregon made multiple calls confused about agency, trust accounting procedures and records. When the live BCOO class was suggested, she said she wasn't interested because she doesn't need any Idaho education as a reciprocal broker.
61. Licensee wants to offer free carpet cleaning to anyone who sends him leads.
62. A buyer is paying his buyer broker's fee, but insist that the seller only pay the listing agent 2.5% if this buyer purchases the house.
63. A listing broker received two separate offers on two different duplex properties from the same buyer through a competing brokerage. Both offers are showing the buyer intends to obtaining owner occupied financing. What does the listing broker do?
64. Anonymous caller knows of a sale where the buyer is going to deed the property to the real estate broker. Caller is angry because his offer was not accepted. Doesn't have any evidence, and is unwilling to file a complaint, but wants IREC to launch it's own complaint and investigation.
65. Listing broker has disclosed her seller's lien problems to the cooperating broker, but is afraid the cooperating broker is not passing them on to his buyer.
66. Caller says they never received the "blue brochure" so do they have to pay their agent?
67. Agent wants to know how to give money to his buyers but keep it off the closing statements?
68. Consumer is upset and wants to file a complaint. Her neighbor's house is listed and potential buyers keep walking on her lawn to obtain flyers out of the box on the "For Sale" sign.
69. Appraiser is upset with agents. Licensees are instructing MLS to removal all records of a property having been listed when a seller is attempting to refinance. She is having difficulty obtaining the listing history for her appraisals.
70. Brokerage has land under contract in a limited dual agency transaction. A competing office has now made an offer to the buyer to purchase his interest for \$30K more than was offered to the seller originally. What should the agent do?
71. Caller had a listing with a real estate company that is now expired. The broker is still advertising the property as a listed property. The consumer wants this broker's license to be permanently revoked for doing this.
72. A listing agent called. His seller has reduced his listed price and the agent has made the appropriate changes in MLS. Later that afternoon another office has brought in a full price offer at the former listed price, what should the listing agent do?
73. A caller has her property under contract and then it expires. Can she now sale the property to this same buyer and not have to pay the agents any money? Both representation agreements are still in effect.

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**STATE OF IDAHO
Real Estate Commission**

NEWS RELEASE

For Immediate Release

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FINGERPRINT RESULTS REQUIRED PRIOR TO APPLICATION FOR REAL ESTATE LICENSE

BOISE – January 6, 2004 – Effective March 1, 2004, the Idaho Real Estate Commission (IREC) will no longer accept an application for licensure until the fingerprint results have been received from the Idaho State Police/FBI and the applicant meets Idaho Code requirements for licensure. Applicants are advised to submit their fingerprint card with the \$34 processing fee at least 3-4 weeks prior to applying for a real estate license. Applications received on or after March 1, 2004, without the fingerprint results being on file will be returned to the applicant. IREC will send a notice to the applicant's home address upon receipt of the ISP/FBI fingerprint results. This notice will state either that 1) the fingerprints are approved and the applicant can apply for licensure, or 2) that additional information about the fingerprint results is needed from the applicant for IREC review.

For more information about the new fingerprint requirement, contact Neal Bernklau, Licensing Supervisor, at (208) 334-3285 ext. 227 (toll free, 1-866-447-5411), or nbernkla@irec.state.id.us.